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Sergeant Renee Leffler, Officer James Rhine, Officer Douglas
Aleman, Officer Jared McColough, Officer Joshua Phillipi,
Deputy Kalen Brockwalder, Deputy Michael Davis

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DANE SHIKMAN,
Plaintiff,

v.

COUNTY OF LAKE; COUNTY OF LAKE
SHERIFF BRIAN MARTIN; CAPTAIN
GREG HOSMAN; SERGEANT RENEE
LEFFLER; OFFICER JAMES RHINE;
OFFICER DOUGLAS ALEMAN; OFFICER
KATHERINE PRINCE; OFFICER JARED
MCCOLOUGH; OFFICER JOSHUA
PHILLIPI; DEPUTY KALEN BROCK
WALDER; DEPUTY MICHAEL DAVIS;
CALIFORNIA FORENSIC MEDICAL
GROUP; TAYLOR FITHIAN, M.D.;
ROBBIN BRIGGS; MONIQUE QUILLEN;
MANDY ROBBINS; ALISHA
STOTTSBERRY; and DOES 1-50;,
Defendants.

Case No. 1:16-cv-05121-NJV

**DEFENDANTS COUNTY OF LAKE, SHERIFF
BRIAN MARTIN, CAPTAIN GREG HOSMAN,
SERGEANT RENEE LEFFLER, OFFICER
JAMES RHINE, OFFICER DOUGLAS ALEMAN,
OFFICER JARED MCCOLOUGH, OFFICER
JOSHUA PHILLIPI, DEPUTY KALEN
BROCKWALDER, DEPUTY MICHAEL DAVIS'S
ANSWER TO PLAINTIFF'S COMPLAINT**

DEFENDANTS' DEMAND FOR JURY TRIAL

Magistrate Judge Nandor J. Vadas

Defendants COUNTY OF LAKE, SHERIFF BRIAN MARTIN, CAPTAIN GREG HOSMAN,
SERGEANT RENEE LEFFLER, JAMES RHINE, DOUGLAS ALEMAN, JARED MCCOLOUGH,
JOSHUA PHILLIPI, KALEN BROCKWALDER and MICHAEL DAVIS (hereafter referred to
collectively as "County Defendants") hereby demand a jury trial in the above-captioned matter and
answer plaintiff's Complaint filed on September 6, 2016, as follows:

ANSWER TO “JURISDICTION/VENUE/GOVERNMENT CLAIM”

1. Answering paragraph 1: These answering County Defendants neither admit nor deny the allegations in this paragraph as they are matters of law not appropriate for admission or denial.

2. Answering paragraph 2: These answering County Defendants neither admit nor deny the allegations in this paragraph as they are matters of law not appropriate for admission or denial.

3. Answering paragraph 3: These answering County Defendants neither admit nor deny the allegations in this paragraph as they are matters of law not appropriate for admission or denial.

4. Answering paragraph 4: These answering County Defendants admit that at all relevant times alleged in the complaint the County of Lake was a public entity organized and existing under the laws of the State of California, plaintiff filed a government claim against the County on January 29, 2016, the County rejected the claim on March 17, 2016, and plaintiff’s complaint was filed within the six month provision of the California Government Code. This action is in the initial investigation stages and defendants lack sufficient information or belief as to the remaining allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

5. Answering paragraph 5: These answering County Defendants admit on information and belief that plaintiff demands a jury trial in this action.

ANSWER TO “IDENTIFICATION OF DECEDENT”

6. Answering paragraph 6: These answering County Defendants admit on information and belief that Elizabeth Gaunt committed suicide while in custody of the Lake County jail on August 2, 2015. This action is in the initial investigation stages and defendants lack sufficient information or belief as to the remaining allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

ANSWER TO “IDENTIFICATION OF DEFENDANTS”

7. Answering paragraph 7: These answering County Defendants admit that the County is responsible for overseeing the Lake County jail, the Lake County Sheriff’s Office, Lake County Sheriff Brian Martin, Lake County Sheriff’s Captain Greg Hosman and Lake County Sheriff’s deputies and correctional officers and employees of the County. These answering County Defendants deny that the County is liable for the acts of all parties, personnel and entities described in the complaint. This action

1 is in the initial investigation stages and defendants lack sufficient information or belief as to the
2 remaining allegations in this paragraph, and, on this ground, deny the remaining allegations contained
3 therein.

4 8. Answering paragraph 8: These answering County Defendants admit that Martin was the
5 Sheriff for the County, Hosman was the Sheriff's Captain and that Martin and Hosman are being sued in
6 their individual and official capacities. This action is in the initial investigation stages and defendants
7 lack sufficient information or belief as to the remaining allegations in this paragraph, and, on this ground,
8 deny the remaining allegations contained therein.

9 9. Answering paragraph 9: These answering County Defendants admit that Sergeant Renee
10 Leffler was a correctional officer/ supervisor employed by the County and working at the jail, and that
11 she is being sued in both individual and official capacities. This action is in the initial investigation
12 stages and defendants lack sufficient information or belief as to the remaining allegations in this
13 paragraph, and, on this ground, deny the remaining allegations contained therein.

14 10. Answering paragraph 10: These answering County Defendants admit that James Rhine
15 was a correctional officer employed by the County and working at the jail, and that he is being sued in
16 both individual and official capacities. This action is in the initial investigation stages and defendants
17 lack sufficient information or belief as to the remaining allegations in this paragraph, and, on this ground,
18 deny the remaining allegations contained therein.

19 11. Answering paragraph 11: These answering County Defendants admit that Douglas
20 Aleman was a correctional officer employed by the County and working at the jail, and that he is being
21 sued in both individual and official capacities. This action is in the initial investigation stages and
22 defendants lack sufficient information or belief as to the remaining allegations in this paragraph, and, on
23 this ground, deny the remaining allegations contained therein.

24 12. Answering paragraph 12: These answering County Defendants admit that Katherine
25 Prince was a correctional officer employed by the County and working at the jail, and that she is being
26 sued in both individual and official capacities. This action is in the initial investigation stages and
27 defendants lack sufficient information or belief as to the remaining allegations in this paragraph, and, on
28 this ground, deny the remaining allegations contained therein.

1 13. Answering paragraph 13: These answering County Defendants admit that Jared
2 McColough was a correctional officer employed by the County and working at the jail, and that he is
3 being sued in both individual and official capacities. This action is in the initial investigation stages and
4 defendants lack sufficient information or belief as to the remaining allegations in this paragraph, and, on
5 this ground, deny the remaining allegations contained therein.

6 14. Answering paragraph 14: These answering County Defendants admit that Joshua Phillipi
7 was a correctional officer employed by the County and working at the jail, and that he is being sued in
8 both individual and official capacities. This action is in the initial investigation stages and defendants
9 lack sufficient information or belief as to the remaining allegations in this paragraph, and, on this ground,
10 deny the remaining allegations contained therein.

11 15. Answering paragraph 15: These answering County Defendants admit that Kalen
12 Brockwalder was a correctional officer employed by the County and working at the jail, and is being
13 sued in both individual and official capacities. This action is in the initial investigation stages and
14 defendants lack sufficient information or belief as to the remaining allegations in this paragraph, and, on
15 this ground, deny the remaining allegations contained therein.

16 16. Answering paragraph 16: These answering County Defendants admit that Michael Davis
17 was a correctional officer employed by the County and working at the jail, and is being sued in both
18 individual and official capacities. This action is in the initial investigation stages and defendants lack
19 sufficient information or belief as to the remaining allegations in this paragraph, and, on this ground,
20 deny the remaining allegations contained therein.

21 17. Answering paragraph 17: These answering County defendants admit on information and
22 belief that defendant California Forensic Medical Group (CFMG) had a contract with the County to
23 provide medical and mental health services for inmates at the Lake County jail. This action is in the
24 initial investigation stages and defendants lack sufficient information or belief as to the remaining
25 allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

26 18. Answering paragraph 18: These answering County defendants lack sufficient information
27 or belief as to the allegations in this paragraph, and, on this ground deny the allegations contained
28 therein.

1 19. Answering paragraph 19: These answering County defendants lack sufficient information
2 or belief as to the allegations in this paragraph, and, on this ground deny the allegations contained
3 therein.

4 20. Answering paragraph 20: These answering County defendants lack sufficient information
5 or belief as to the allegations in this paragraph, and, on this ground deny the allegations contained
6 therein.

7 21. Answering paragraph 21: These answering County defendants lack sufficient information
8 or belief as to the allegations in this paragraph, and, on this ground deny the allegations contained
9 therein.

10 22. Answering paragraph 22: These answering County defendants lack sufficient information
11 or belief as to the allegations in this paragraph, and, on this ground deny the allegations contained
12 therein.

13 **ANSWER TO “IDENTIFICATION OF PLAINTIFF”**

14 23. Answering paragraph 23: These answering County defendants lack sufficient information
15 or belief as the allegations in this paragraph, and, on this ground deny the allegations contained therein.

16 **ANSWER TO “FACTS LEADING TO GAUNT’S IN-CUSTODY SUICIDE”**

17 24. Answering paragraph 24: These answering County defendants admit on information and
18 belief that on August 1, 2015, at approximately 12:13 p.m., Lake County Sheriff’s Deputies Brockwalder
19 and Davis contacted decedent Gaunt in Nice, California and that Gaunt’s behavior was unusual. This
20 action is in the initial investigation stages and defendants lack sufficient information or belief as to the
21 remaining allegations in this paragraph, and, on this ground, deny the remaining allegations contained
22 therein.

23 25. Answering paragraph 25: These answering County defendants admit on information and
24 belief that Gaunt told Deputies Brockwalder and Davis that her name was Carrey Scott, she thought she
25 was in Florida, the year was 2005 and George Bush was the president of the United States. This action is
26 in the initial investigation stages and defendants lack sufficient information or belief as to the remaining
27 allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

28 26. Answering paragraph 26: These answering County defendants admit on information and

1 belief that Gaunt was arrested and taken to the Hill Road Jail. This action is in the initial investigation
2 stages and defendants lack sufficient information or belief as to the remaining allegations in this
3 paragraph, and, on this ground, deny the remaining allegations contained therein.

4 27. Answering paragraph 27: These answering County defendants admit on information and
5 belief that Gaunt arrived at the Hill Road Jail at approximately 1:00 p.m. on August 1, 2015 and that
6 Rhine and Leffler assisted with the intake process. This action is in the initial investigation stages and
7 defendants lack sufficient information or belief as to the remaining allegations in this paragraph, and, on
8 this ground, deny the remaining allegations contained therein.

9 28. Answering paragraph 28: These answering County defendants admit on information and
10 belief that sobering cell assessments were performed on Gaunt. This action is in the initial investigation
11 stages and defendants lack sufficient information or belief as to the remaining allegations in this
12 paragraph, and, on this ground, deny the remaining allegations contained therein.

13 29. Answering paragraph 29: These answering County defendants lack sufficient information
14 or belief as to the allegations in this paragraph, and, on this ground, deny the allegations contained
15 therein.

16 30. Answering paragraph 30: These answering County defendants lack sufficient information
17 or belief as to the allegations in this paragraph, and, on this ground, deny the allegations contained
18 therein.

19 31. Answering paragraph 31: These answering County defendants lack sufficient information
20 or belief as to the allegations in this paragraph, and, on this ground, deny the allegations contained
21 therein.

22 32: Answering paragraph 32: These answering County defendants admit on information and
23 belief that Gaunt was in a sobering cell with video surveillance and sobering cell checks every 15
24 minutes. This action is in the initial investigation stages and defendants lack sufficient information or
25 belief as to the remaining allegations in this paragraph, and, on this ground, deny the remaining
26 allegations contained therein.

27 33. Answering paragraph 33: This action is in the initial investigation stages, and these
28 answering County defendants lack sufficient information or belief as to the allegations in this paragraph,

1 and, on this ground, deny the allegations contained therein.

2 34. Answering paragraph 34: This action is in the initial investigation stages, and these
3 answering County defendants lack sufficient information or belief as to the allegations in this paragraph,
4 and, on this ground, deny the allegations contained therein.

5 35. Answering paragraph 35: This action is in the initial investigation stages, and these
6 answering County defendants lack sufficient information or belief as to the allegations in this paragraph,
7 and, on this ground, deny the allegations contained therein.

8 36. Answering paragraph 36: This action is in the initial investigation stages, and these
9 answering County defendants lack sufficient information or belief as to the allegations in this paragraph,
10 and, on this ground, deny the allegations contained therein.

11 37. Answering paragraph 37: This action is in the initial investigation stages, and these
12 answering County defendants lack sufficient information or belief as to the allegations in this paragraph,
13 and, on this ground, deny the allegations contained therein.

14 38. Answering paragraph 38: This action is in the initial investigation stages, and these
15 answering County defendants lack sufficient information or belief as to the allegations in this paragraph,
16 and, on this ground, deny the allegations contained therein.

17 39. Answering paragraph 39: This action is in the initial investigation stages, and these
18 answering County defendants lack sufficient information or belief as to the allegations in this paragraph,
19 and, on this ground, deny the allegations contained therein.

20 40. Answering paragraph 40: This action is in the initial investigation stages, and these
21 answering County defendants lack sufficient information or belief as to the allegations in this paragraph,
22 and, on this ground, deny the allegations contained therein.

23 41. Answering paragraph 41: This action is in the initial investigation stages, and these
24 answering County defendants lack sufficient information or belief as to the allegations in this paragraph,
25 and, on this ground, deny the allegations contained therein.

26 42. Answering paragraph 42: This action is in the initial investigation stages, and these
27 answering County defendants lack sufficient information or belief as to the allegations in this paragraph,
28 and, on this ground, deny the allegations contained therein.

43. Answering paragraph 43: This action is in the initial investigation stages, and these answering County defendants lack sufficient information or belief as to the allegations in this paragraph, and, on this ground, deny the allegations contained therein.

44. Answering paragraph 44: This action is in the initial investigation stages, and these answering County defendants lack sufficient information or belief as to the allegations in this paragraph, and, on this ground, deny the allegations contained therein.

45. Answering paragraph 45: These answering County defendants deny the allegations as to the County, Martin or Hosman. This action is in the initial investigation stages, and these answering County defendants lack sufficient information or belief as to the remaining allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

46. Answering paragraph 46: These answering County defendants deny the allegations as to the County, Martin or Hosman. This action is in the initial investigation stages, and these answering County defendants lack sufficient information or belief as to the remaining allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

47. Answering paragraph 47: These answering County defendants deny the allegations as to the County, Martin or Hosman. This action is in the initial investigation stages, and these answering County defendants lack sufficient information or belief as to the remaining allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

48. Answering paragraph 48: These answering County defendants deny the allegations as to the County, Martin or Hosman. This action is in the initial investigation stages, and these answering County defendants lack sufficient information or belief as to the remaining allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

ANSWER TO FIRST CAUSE OF ACTION (VIOLATION OF 42 U.S. CODE § 1983 – FOURTEENTH AMENDMENT – DELIBERATE INDIFFERENCE TO SERIOUS MEDICAL/MENTAL HEALTH NEEDS OF GAUNT AND FAILURE TO PROTECT GAUNT FROM HARM) (AGAINST ALL DEFENDANTS INCLUDING DOES)

49. Answering paragraph 49: These answering County defendants incorporate by reference herein each and every response to every paragraph of the complaint, inclusive, as if fully set forth herein.

50. Answering paragraph 50: This action is in the initial investigation stages, and these

1 answering County defendants lack sufficient information or belief as to the allegations in this paragraph,
2 and, on this ground, deny the allegations contained therein.

3 51. Answering paragraph 51: These answering County defendants admit on information and
4 belief that Gaunt was in the custody of the County, and/or CFMG, at the jail. This action is in the initial
5 investigation stages, and these answering County defendants lack sufficient information or belief as to
6 the remaining allegations in this paragraph, and, on this ground, deny the remaining allegations contained
7 therein.

8 52. Answering paragraph 52: These answering County defendants deny each and every
9 allegation contained therein as to the County defendants. This action is in the initial investigation stages,
10 and these answering County defendants lack sufficient information or belief as to the remaining
11 allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

12 53. Answering paragraph 53: These answering County defendants deny each and every
13 allegation contained therein as to the County defendants. This action is in the initial investigation stages,
14 and these answering County defendants lack sufficient information or belief as to the remaining
15 allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

16 54. Answering paragraph 54: These answering County defendants deny each and every
17 allegation contained therein as to the County defendants. This action is in the initial investigation stages,
18 and these answering County defendants lack sufficient information or belief as to the remaining
19 allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

20 55. Answering paragraph 55: These answering County defendants deny each and every
21 allegation contained therein as to the County defendants. This action is in the initial investigation stages,
22 and these answering County defendants lack sufficient information or belief as to the remaining
23 allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

24 56. Answering paragraph 56: These answering County defendants deny each and every
25 allegation contained therein as to the County defendants, and deny that plaintiff was damaged by these
26 answering defendants in any sum or sums as alleged or at all.

27 57. Answering paragraph 57: These answering County defendants deny each and every
28 allegation contained therein as to the County defendants, and deny that plaintiff was damaged by these

1 answering defendants in any sum or sums as alleged or at all.

2 58. Answering paragraph 58: These answering County defendants deny each and every
3 allegation contained therein as to the County defendants.

4 59. Answering paragraph 59: These answering County defendants deny each and every
5 allegation contained therein as to the County defendants. This action is in the initial investigation stages,
6 and these answering County defendants lack sufficient information or belief as to the remaining
7 allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

8 **ANSWER TO SECOND CAUSE OF ACTION (VIOLATION OF 42 U.S. CODE § 1983 –**
9 **FOURTEENTH AMENDMENT – INADEQUATE POLICIES, CUSTOMS, AND/OR**
10 **PRACTICES RESULTING IN DEPRIVATION OF MEDICAL/MENTAL HEALTH CARE TO**
11 **GAUNT AND FAILURE TO PROTECT GAUNT FROM HARM) (AGAINST DEFENDANTS**
12 **COUNTY, CFMG, FITHIAN, STOTTSBERRY, MARTIN, HOSMAN AND DOES ONLY)**

13 60. Answering paragraph 60: The County defendants incorporate by reference herein each
14 and every response to every paragraph of the complaint, inclusive, as if fully set forth herein.

15 61. Answering paragraph 61: These answering County defendants deny each and every
16 allegation contained therein as to the County defendants. This action is in the initial investigation stages,
17 and these answering County defendants lack sufficient information or belief as to the remaining
18 allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

19 62. Answering paragraph 62: This action is in the initial investigation stages, and these
20 answering County defendants lack sufficient information or belief as to the allegations in this paragraph,
21 and, on this ground, deny the allegations contained therein.

22 63. Answering paragraph 64: These answering County defendants deny each and every
23 allegation contained therein as to the County defendants. This action is in the initial investigation stages,
24 and these answering County defendants lack sufficient information or belief as to the remaining
25 allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

26 64. Answering paragraph 64: These answering County defendants lack sufficient information
27 or belief as to the allegations in this paragraph, and, on this ground, deny the allegations contained
28 therein.

65. Answering paragraph 65: This action is in the initial investigation stages, and these
answering County defendants lack sufficient information or belief as to the allegations in this paragraph,

1 and, on this ground, deny the allegations contained therein.

2 66. Answering paragraph 66: These answering County defendants deny each and every
3 allegation contained therein as to the County defendants. This action is in the initial investigation stages,
4 and these answering County defendants lack sufficient information or belief as to the remaining
5 allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

6 67. Answering paragraph 67: These answering County defendants deny each and every
7 allegation contained therein as to the County defendants, and deny that plaintiff was damaged by these
8 answering defendants in any sum or sums as alleged or at all.

9 68. Answering paragraph 68: These answering County defendants deny each and every
10 allegation contained therein as to the County defendants, and deny that plaintiff was damaged by these
11 answering defendants in any sum or sums as alleged or at all.

12 69. Answering paragraph 69: These answering County defendants deny each and every
13 allegation contained therein as to the County defendants, and deny that plaintiff was damaged by these
14 answering defendants in any sum or sums as alleged or at all.

15 70. Answering paragraph 70: These answering County defendants deny each and every
16 allegation contained therein as to the County defendants.

17 71. Answering paragraph 71: These answering County defendants deny each and every
18 allegation contained therein as to the County defendants. This action is in the initial investigation stages,
19 and these answering County defendants lack sufficient information or belief as to the remaining
20 allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

21 **ANSWER TO THIRD CAUSE OF ACTION (VIOLATION OF 42 U.S. CODE § 1983 –**
22 **FOURTEENTH AMENDMENT – FAILURE TO TRAIN/SUPERVISE RESULTING IN**
23 **DEPRIVATION OF MEDICAL/MENTAL HEALTH CARE TO GAUNT AND FAILURE TO**
PROTECT GAUNT FROM HARM) (AGAINST DEFENDANTS COUNTY, CFMG, FITHIAN,
STOTTSBERRY, MARTIN, HOSMAN AND DOES ONLY)

24 72. Answering paragraph 72: These answering County defendants incorporate by reference
25 herein each and every response to every paragraph of the complaint, inclusive, as if fully set forth herein.

26 73. Answering paragraph 73: These answering County defendants deny each and every
27 allegation contained therein as to the County defendants. This action is in the initial investigation stages,
28 and these answering County defendants lack sufficient information or belief as to the remaining

1 allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

2 74. Answering paragraph 74: These answering County defendants deny each and every
3 allegation contained therein as to the County defendants. This action is in the initial investigation stages,
4 and these answering County defendants lack sufficient information or belief as to the remaining
5 allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

6 75. Answering paragraph 75: This action is in the initial investigation stages, and these
7 answering County defendants lack sufficient information or belief as to the allegations in this paragraph,
8 and, on this ground, deny the allegations contained therein.

9 76. Answering paragraph 76: These answering County defendants deny each and every
10 allegation contained therein as to the County defendants. This action is in the initial investigation stages,
11 and these answering County defendants lack sufficient information or belief as to the remaining
12 allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

13 77. Answering paragraph 77: These answering County defendants lack sufficient information
14 or belief as to the allegations in this paragraph, and, on this ground, deny the allegations contained
15 therein.

16 78. Answering paragraph 78: This action is in the initial investigation stages, and these
17 answering County defendants lack sufficient information or belief as to the allegations in this paragraph,
18 and, on this ground, deny the allegations contained therein.

19 79. Answering paragraph 79: These answering County defendants deny each and every
20 allegation contained therein as to the County defendants. This action is in the initial investigation stages,
21 and these answering County defendants lack sufficient information or belief as to the remaining
22 allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

23 80. Answering paragraph 80: These answering County defendants deny each and every
24 allegation contained therein as to the County defendants, and deny that plaintiff was damaged by these
25 answering defendants in any sum or sums as alleged or at all.

26 81. Answering paragraph 81: These answering County defendants deny each and every
27 allegation contained therein as to the County defendants, and deny that plaintiff was damaged by these
28 answering defendants in any sum or sums as alleged or at all.

1 82. Answering paragraph 82: These answering County defendants deny each and every
2 allegation contained therein as to the County defendants, and deny that plaintiff was damaged by these
3 answering defendants in any sum or sums as alleged or at all.

4 83. Answering paragraph 83: These answering County defendants deny each and every
5 allegation contained therein as to the County defendants.

6 84. Answering paragraph 84: These answering County defendants deny each and every
7 allegation contained therein as to the County defendants. This action is in the initial investigation stages,
8 and these answering County defendants lack sufficient information or belief as to the remaining
9 allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

10 **ANSWER TO FOURTH CAUSE OF ACTION (WRONGFUL DEATH ARISING FROM**
11 **NEGLIGENCE) (AGAINST ALL DEFENDANTS, INCLUDING DOES)**

12 85. Answering paragraph 85: These answering County defendants incorporate by reference
13 herein each and every response to every paragraph of the complaint, inclusive, as if fully set forth herein.

14 86. Answering paragraph 86: These answering County defendants admit on information and
15 belief that Gaunt was in custody at the Hill Road Jail at the time of her death. This action is in the initial
16 investigation stages, and these County defendants lack sufficient information or belief as to the remaining
17 allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

18 87. Answering paragraph 87: These answering County defendants deny each and every
19 allegation contained therein as to these County defendants. This action is in the initial investigation
20 stages, and these answering County defendants lack sufficient information or belief as to the remaining
21 allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

22 88. Answering paragraph 88: These answering County defendants deny each and every
23 allegation contained therein as to these County defendants. This action is in the initial investigation
24 stages, and these answering County defendants lack sufficient information or belief as to the remaining
25 allegations in this paragraph, and, on this ground, deny the remaining allegations contained therein.

26 89. Answering paragraph 89: This action is in the initial investigation stages, and these
27 answering County defendants lack sufficient information or belief as to the allegations in this paragraph,
28 and, on this ground, deny the allegations contained therein.

1 90. Answering paragraph 90: These answering County defendants deny each and every
2 allegation contained therein.

3 91. Answering paragraph 91: These answering County defendants deny each and every
4 allegation contained therein as to these answering County defendants, and deny that plaintiff was
5 damaged by these answering defendants in any sum or sums as alleged or at all.

6 **ANSWER TO FIFTH CAUSE OF ACTION (VIOLATION OF CALIFORNIA GOVERNMENT**
7 **CODE §845.6) (AGAINST ALL DEFENDANTS, INCLUDING DOES)**

8 92. Answering paragraph 92: These answering County defendants incorporate by reference
9 herein each and every response to every paragraph of the complaint, inclusive, as if fully set forth herein.

10 93. Answering paragraph 93: This action is in the initial investigation stages, and these
11 answering County defendants lack sufficient information or belief as to the allegations in this paragraph,
12 and, on this ground, deny the allegations contained therein.

13 94. Answering paragraph 94: This action is in the initial investigation stages, and these
14 answering County defendants lack sufficient information or belief as to the allegations in this paragraph,
15 and, on this ground, deny the allegations contained therein.

16 95. Answering paragraph 95: These answering County defendants admit on information and
17 belief that Gaunt committed suicide at the Hill Road jail. These answering County defendants deny each
18 and every remaining allegation contained therein as to these answering County defendants, and deny that
19 plaintiff was damaged by these answering defendants in any sum or sums as alleged or at all.

20 **ANSWER TO SIXTH CAUSE OF ACTION (VIOLATION OF 42 U.S. CODE §12132**
21 **AMERICANS WITH DISABILITIES ACT – FAILURE TO ACCOMMODATE GAUNT’S**
22 **MENTAL DISABILITY AND DISCRIMINATION AGAINST GAUNT BASED ON MENTAL**
23 **DISABILITY) (AGAINST COUNTY, CFMG, AND DOES ONLY)**

24 96. Answering paragraph 96: These answering County defendants incorporate by reference
25 herein each and every response to every paragraph of the complaint, inclusive, as if fully set forth herein.

26 97. Answering paragraph 97: These answering County Defendants neither admit nor deny the
27 allegations in this paragraph as they are matters of law not appropriate for admission or denial.

28 98. Answering paragraph 98: These answering County defendants deny each and every
allegation contained therein.

99. Answering paragraph 99: These answering County Defendants neither admit nor deny the allegations in this paragraph as they are matters of law not appropriate for admission or denial.

100. Answering paragraph 100: This action is in the initial investigation stages, and these answering County defendants lack sufficient information or belief as to the allegations in this paragraph, and, on this ground, deny the allegations contained therein.

101. Answering paragraph 101: These answering County defendants deny each and every allegation contained therein.

102. Answering paragraph 102: These answering County defendants deny each and every allegation contained therein, and deny that plaintiff was damaged in any sum or sums as alleged or at all.

ANSWER TO SEVENTH CAUSE OF ACTION (VIOLATION OF CIVIL CODE 51 – UNRUH ACT – FAILURE TO ACCOMMODATE GAUNT’S MENTAL DISABILITY AND DISCRIMINATION AGAINST GAUNT BASED ON MENTAL DISABILITY) (AGAINST COUNTY, CFMG, AND DOES ONLY)

103. Answering paragraph 103: These answering County defendants incorporate by reference herein each and every response to every paragraph of the complaint, inclusive, as if fully set forth herein.

104. Answering paragraph 104: These answering County defendants deny that Gaunt’s rights under the ADA were violated or that a violation of Civil Code 51 occurred. These answering County Defendants neither admit nor deny the remaining allegations in this paragraph as they are matters of law not appropriate for admission or denial.

105. Answering paragraph 105: These answering County Defendants neither admit nor deny the allegations in this paragraph as they are matters of law not appropriate for admission or denial.

106. Answering paragraph 106: These answering County defendants deny each and every allegation contained therein.

107. Answering paragraph 107: These answering County Defendants neither admit nor deny the allegations in this paragraph as they are matters of law not appropriate for admission or denial.

108. Answering paragraph 108: This action is in the initial investigation stages, and these answering County defendants lack sufficient information or belief as to the allegations in this paragraph, and, on this ground, deny the allegations contained therein.

109. Answering paragraph 109: These answering County defendants deny each and every

1 allegation contained therein.

2 110. Answering paragraph 110: These answering County defendants deny each and every
3 allegation contained therein, and deny that plaintiff was damaged in any sum or sums as alleged or at all.

4 **DEFENDANTS' AFFIRMATIVE DEFENSES**

5 **FIRST AFFIRMATIVE DEFENSE**

6 Plaintiff's complaint fails to state facts sufficient to constitute a cause of action against the
7 answering defendants, and each of them.

8 **SECOND AFFIRMATIVE DEFENSE**

9 The damages allegedly sustained by plaintiff were caused or contributed to by the intentional or
10 negligent acts and/or omissions of persons or entities other than answering defendants, including, but not
11 limited to, plaintiff and plaintiff's decedent herself and bars recovery. In the event that any fault of
12 answering defendants is found to have contributed to any such damages, plaintiff's recovery, if any, from
13 answering defendants is limited to that percentage of plaintiff's damages equal to the percentage by
14 which answering defendants' fault contributed to said damages.

15 **THIRD AFFIRMATIVE DEFENSE**

16 Plaintiff and plaintiff's decedent voluntarily consented to and participated in the acts complained
17 of, and/or failed to mitigate damages, and said failure proximately contributed to the events and damages
18 alleged in the complaint.

19 **FOURTH AFFIRMATIVE DEFENSE**

20 Plaintiff's claims are barred by the doctrines of laches, waiver, unclean hands, issue preclusion,
21 collateral estoppel, res judicata, and by all applicable federal and state statutes of limitation, including all
22 claim filing requirements of the California Tort Claims Act.

23 **FIFTH AFFIRMATIVE DEFENSE**

24 Defendants are immune from liability pursuant to California Government Code Section 815.6, as
25 all acts and/or omissions complained of by plaintiff was reasonable and/or exercised with reasonable
26 diligence within the meaning of said statute.

27 **SIXTH AFFIRMATIVE DEFENSE**

28 Plaintiff, by his actions and/or inactions, has waived his rights to litigate the claims alleged in the

1 Complaint against Defendants.

2 **SEVENTH AFFIRMATIVE DEFENSE**

3 Defendants at all times referred to in plaintiff's complaint acted in complete good faith and
4 reasonably within the meaning of all federal and state statutes, doctrines and judicial authorities.

5 **EIGHTH AFFIRMATIVE DEFENSE**

6 Defendants are immune from liability for any actions that transpired at the time and place of the
7 events complaint of by reason of the statutory immunities contained in California Government Code,
8 Title I, Division 3.6, Sections 810, et seq., including but not limited to Sections 815, 815.2(b), 815.6,
9 818, 818.8, 820(b), 820.2, 820.4, 820.6, 820.8, 821.6, 821.8 and 822.2, 845.6, 855.

10 **NINTH AFFIRMATIVE DEFENSE**

11 Answering defendants' acts were not a substantial or proximate cause of any injury to plaintiff or
12 plaintiff's decedent.

13 **TENTH AFFIRMATIVE DEFENSE**

14 Defendants are immune from liability pursuant to California Government Code Sections 815.2
15 and 820.2, as all acts and/or omissions complained of by plaintiff were discretionary acts within the
16 meaning of said statute.

17 **ELEVENTH AFFIRMATIVE DEFENSE**

18 Plaintiff and plaintiff's decedent voluntarily assumed the risk of injuries and damages arising out
19 of the subject incident, and said assumption of risk acts as a complete bar to any recovery in this matter.

20 **TWELFTH AFFIRMATIVE DEFENSE**

21 Plaintiff's alleged injuries and damages are barred to the extent that they exceed the scope of any
22 government claim(s) presented to with these answering defendants and defendants' employer, a public
23 entity.

24 **THIRTEENTH AFFIRMATIVE DEFENSE**

25 Defendants are immune from liability pursuant to California Penal Code Sections 834, 834a, 835,
26 835a, 836, 836.5 and 840 for any police conduct/action relating to the incident complained of by
27 plaintiff.
28

FOURTEENTH AFFIRMATIVE DEFENSE

Defendants are immune from liability pursuant to California Government Code Sections 820.4 and 820.6, as answering defendants exercised due care in the execution and enforcement of the law relative to plaintiff and/or is immune for invalid or inapplicable enactments.

FIFTEENTH AFFIRMATIVE DEFENSE

Defendants are immune from liability pursuant to California Government Code Section 821.6 for instituting/prosecuting any and all judicial proceedings which relate to the subject incident.

SIXTEENTH AFFIRMATIVE DEFENSE

Defendants are immune from liability, as plaintiff's allegations do not rise to the level of punishment in violation of the Due Process clause of the Fourteenth Amendment.

SEVENTEENTH AFFIRMATIVE DEFENSE

Defendants are immune from liability for injury to or by any prisoner within defendants' custody pursuant to the provisions of California Government Code Sections 844.6, 845.2 and 854.8.

EIGHTEENTH AFFIRMATIVE DEFENSE

Defendants are immune from liability pursuant to California Government Code Section 845.6 for the failure to obtain or furnish medical care for any prisoner within defendants' custody.

NINETEENTH AFFIRMATIVE DEFENSE

Defendants are immune from liability under California Penal Code Section 847 since, at the time of the subject incident, defendants had reasonable cause to believe that any attempted arrest/detention was lawful.

TWENTIETH AFFIRMATIVE DEFENSE

Defendants are immune from liability under California Government Code Sections 818.2 and 821 for failing to adopt an enactment or enforce any law, and under Government Code Sections 818.4, 818.6, 821.2 and 821.4 for any alleged improper licensing activities and/or property inspections.

TWENTY-FIRST AFFIRMATIVE DEFENSE

Defendants are immune from liability under California Government Code Section 845 for the alleged failure to provide police protection or to provide sufficient police protection and California Government Code Section 845.8 for any injury resulting from an escaping or escaped prisoner, an

1 escaping or escaped arrested person, or a person resisting arrest.

2 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

3 Defendants are immune from liability under the provisions of California Government Code
4 Section 845.4 for any alleged interference with the right of a prisoner to a judicial determination of the
5 legality of his confinement or probation.

6 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

7 Defendants allege that, in the event defendants are found to be liable, which is expressly denied
8 herein, defendants may elect to have damages, if any, in excess of the amount specified in California
9 Government Code Sections 984 *et seq.* and California Code of Civil Procedure Section 667.7 paid in
10 whole or in part as specified in California Code of Civil Procedure Section 667.7.

11 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

12 Defendants are immune from liability under the federal doctrine of qualified good faith immunity
13 as set forth in *Malley v. Briggs*, 475 U.S. 335 (1986), *Harlow v. Fitzgerald*, 457 U.S. 800 (1982),
14 *Anderson v. Creighton*, 107 S.Ct. 3034 (1987), *City of Oklahoma City v. Tuttle*, 471 U.S. 808 (1985) and
15 other applicable statutory and judicial authorities.

16 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

17 Plaintiff fails to sufficiently allege a cause of action on any federal claim for relief.

18 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

19 Plaintiff's complaint fails to state a claim for any constitutional violation under 42 U.S.C. Section
20 1983 against answering defendants.

21 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

22 No municipal policy, pattern or practice caused any deprivation of plaintiff's federal civil rights,
23 and thus under the doctrine of law announced in *Monell v. Dept. of Social Services*, 436 U.S. 658 (1978),
24 and other applicable statutory and judicial authorities, plaintiff is not entitled to judgment against
25 answering defendants.

26 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

27 Defendants' alleged acts were reasonable under the doctrine set forth in *Graham v. Connor*, 490
28 U.S. 386, 108 S. Ct. 1865 (1989) and all other applicable federal and state judicial authorities.

TWENTY-NINTH AFFIRMATIVE DEFENSE

Plaintiff's decedent has been denied no federally protected civil right without due process of law, since due process exists in the form of adequate remedies at law.

THIRTIETH AFFIRMATIVE DEFENSE

Defendants are immune from liability pursuant to all remaining applicable provisions of the California Tort Claims Act and other relevant state and federal statutes and/or regulations.

THIRTY-FIRST AFFIRMATIVE DEFENSE

Answering defendants allege that, at all times relevant hereto, defendants acted in good faith, without malice, upon a reasonable belief that decedent was involved in criminal activity and/or threatening the safety and life of persons.

THIRTY-SECOND AFFIRMATIVE DEFENSE

Answering defendants allege that decedent's actions placed defendants in fear of the safety and/or lives of others and that defendants acted in the defense of themselves and/or others.

THIRTY-THIRD AFFIRMATIVE DEFENSE

Answering defendants are informed and believe and thereon allege that the acts complained of by plaintiff were provoked by plaintiff's and/or plaintiff's decedent's conduct and defendants' conduct was not excessive or unreasonable.

THIRTY-FOURTH AFFIRMATIVE DEFENSE

Defendants had probable and/or reasonable cause to detain and/or arrest plaintiff's decedent, and the seizure was reasonable and lawful.

THIRTY-FIFTH AFFIRMATIVE DEFENSE

Defendants are immune from liability under California Government Code Section 846 for injury caused by the failure to secure or arrest a person in custody.

THIRTY-SIXTH AFFIRMATIVE DEFENSE

Plaintiff's complaint fails to state a claim for any constitutional violation under 42 U.S.C. Section 1983 against these responding defendants.

THIRTY-SEVENTH AFFIRMATIVE DEFENSE

Defendants are immune from liability under California Government Code Sections 855, 855.2,

855.4, 855.6, 855.8, 856, 856.2 and 856.4 for failing to diagnose that any person was afflicted with a mental illness/disorder or by the failure to provide/prescribe for said illness/disorder.

THIRTY-EIGHTH AFFIRMATIVE DEFENSE

Defendants are immune from liability under California Government Code Sections 850, 850.2, 850.4, and 850.8 for injury caused by transport or failure to transport to a medical facility.

THIRTY-NINTH AFFIRMATIVE DEFENSE

Defendant public entities are immune from liability pursuant to California Government Code Sections 815 and 815.2 for the acts of their employees who are immune from liability.

FORTIETH AFFIRMATIVE DEFENSE

Plaintiff has failed to state a legal or factual basis to support a prayer for punitive damages against these answering defendants, and there is no statutory or other basis for the attorney's fees sought by plaintiff.

FORTY-FIRST AFFIRMATIVE DEFENSE

Defendants shall only be responsible, if at all, for damages in an amount determined pursuant to and in accordance with Proposition 51 (Civil Code §1431.2).

FORTY-SECOND AFFIRMATIVE DEFENSE

Defendants are immune from liability under the provisions of California Government Code Sections 810 through 996.6.

FORTY-THIRD AFFIRMATIVE DEFENSE

Plaintiff's claims are barred by the failure to file a sufficient claim as required under California Government Code Sections 910 *et seq.*, and other applicable provisions of law, and to the extent the complaint is at variance with the Government Claim, or attempts to enlarge or expand upon those allegations and theories, the claims are barred under the provisions of California Government Code sections 905, 910, 911.2, 945.5, 950.2 and related provisions.

FORTY-FOURTH AFFIRMATIVE DEFENSE

Plaintiff failed to comply with the requirements of the Medical Injury Compensation Recover Act (MICRA), California Code of Civil Procedure section 364, to the extent plaintiff seeks recover under the MICRA.

FORTY-FIFTH AFFIRMATIVE DEFENSE

Defendants are entitled to the benefits, rights, immunities, and provisions that are enumerated and as set forth in the Medial Injury Compensation Reform Act, California Business and Professions Code section 6146, California Civil Code Section 3333.1 and California Code of Civil Procedure Sections 364, 365 and 667.7, and California Civil Code Section 1714.8.

WHEREFORE defendants pray that:

1. Plaintiff take nothing by reason of his Complaint;
2. Defendants be awarded their costs of suit incurred herein and their attorneys' fees pursuant to 42 U.S.C. Section 1988 and all other applicable federal statutes and judicial authorities; and
3. Defendants be granted such further relief as the Court deems proper.

Dated: October 28, 2016

BERTRAND, FOX, ELLIOT, OSMAN &
WENZEL

By: /s/ Gregory M. Fox

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